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**LONG ISLAND OFFICE**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
LUIS ALBERTO CHIARI,

Plaintiff,

-against-

NEW YORK RACING ASSOCIATION, INC.,

Defendants.  
-----X

**ORDER**

12-CV-598 (SJF)(AKT)

FEUERSTEIN, District Judge:

On February 2, 2012, pro se plaintiff Luis Alberto Chiari ("plaintiff") commenced this action against his former employer, the New York Racing Association, Inc. ("defendant").

Plaintiff alleges that defendant unlawfully terminated plaintiff's employment and medical benefits in violation of the Americans with Disabilities Act of 1990 ("ADA"), the Consolidated Omnibus Budget Reconciliation Act of 1986 ("COBRA"), and the collective bargaining agreement governing plaintiff's employment. Plaintiff has also filed an application to proceed in forma pauperis.

Upon reviewing plaintiff's declaration in support of his application to proceed in forma pauperis, the Court concludes that plaintiff's financial status qualifies him to commence this action without prepayment of the filing fees. See 28 U.S.C. § 1915(a)(1). Accordingly, plaintiff's application to proceed in forma pauperis is granted.

However, plaintiff has not alleged that he has been granted a "right to sue" letter by the EEOC or other authorized State or local agency. See 42 U.S.C. § 12117(a); see also Negron v. City of N.Y., No. 10-CV-2757, 2011 WL 4737068, at \*4 (E.D.N.Y. Sept. 14, 2011) ("Under Title

VII and the ADA, a plaintiff must file a timely charge with the EEOC or an equivalent state or city agency and receive a 'right to sue' letter from the EEOC before filing an action in federal court."); DiProjetto v. Morris Protective Serv., 489 F. Supp.2d 305, 307 (W.D.N.Y. 2007) ("In general, a plaintiff may bring an employment discrimination action under . . . the ADA only after filing a timely charge with the EEOC or with 'a State or local agency with the authority to grant or seek relief from such practice.'"). Accordingly, plaintiff's ADA claim is dismissed without prejudice unless he files the right to sue letter with this Court by **March 9, 2012 at five o'clock in the afternoon (5:00 p.m.)**.

The Clerk of Court is directed to cause the United States Marshals Service to serve copies of the summons, complaint and this order upon the defendant without prepayment of fees, and to serve a copy of this order in accordance with Rule 77(d)(1) of the Federal Rules of Civil Procedure.

**SO ORDERED.**

s/ Sandra J. Feuerstein

Sandra J. Feuerstein  
United States District Judge

Dated: February 16, 2012  
Central Islip, New York